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November 6, 2023

**VIA ECF**

The Honorable Eric C. Tostrud  
Warren E. Burger Federal Building and  
U.S. Courthouse  
316 North Robert Street, Suite 100  
St. Paul, MN 55101

**Re: *Dalen v. Harpstead*, 23-cv-1877 (ECT/ECW)**

Dear Judge Tostrud:

The parties jointly submit this letter to follow up on two issues that were raised at the October 23, 2023, hearing. Specifically, there were some questions surrounding the procedural history of Mr. Dalen's criminal and commitment matters. Additionally, we represented that Mr. Dalen was found incompetent to stand trial and committed as mentally ill and chemically dependent, while counsel for Defendant represented that he believed Mr. Dalen was committed as mentally ill and dangerous. To resolve any confusion, the parties submit the following summary of relevant events in Mr. Dalen's cases:

- **31-CR-21-1240** (Itasca County, filed 5/20/21)
  - Mr. Dalen was charged with one count of harassment and one count of violating a harassment restraining order.
  - On 10/19/2021, the court found that there was reason to doubt Mr. Dalen's competency to proceed and ordered a Rule 20 examination.
  - On 1/14/2022, the court found that Mr. Dalen was "is mentally ill so as to be incapable of understanding the proceedings against him or participating in his defense," and ordered, "Because the defendant does not present an imminent risk of serious physical harm to himself or others, he is released pending commitment hearing" subject to release conditions.
  - In May 2022, Mr. Dalen violated his release conditions and was re-arrested.

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- On 6/29/2022, the court again found that there was reason to doubt Mr. Dalen's competency to proceed. The court ordered that "Pursuant to Minn. R. Crim. P. 20.04, a civil commitment examination under Minnesota Statutes section 253B shall be conducted."
  - The court also found that, subject to certain conditions, "the defendant is entitled to release, and the examination can be done on an outpatient basis."
  - This criminal case was then suspended per Minnesota Rule of Criminal Procedure 20.01 subd. 6(b).
- **31-PR-22-2358** (Itasca County, filed 9/15/2022)
  - On 11/9/22 the Commitment court issued an order committing Mr. Dalen to the custody of the Commissioner and to the head of a Minnesota Statute § 245G facility as "a mentally ill and chemically dependent person."
  - The court found that Mr. Dalen met the criteria for a "person who poses a risk of harm due to a mental illness," which is defined in Minn. Stat. § 253B.02, subd. 17a.
  - The court did not find that Mr. Dalen met the criteria for a "person who has a mental illness and is dangerous to the public"—commonly referred to as "mentally ill and dangerous"—as defined in Minn. Stat. § 253B.02, subd. 17.
  - The court committed Mr. Dalen to the Minnesota Commissioner of Human Services and to the head of a Minnesota Statute § 245G facility and ordered him to "fully cooperate in applying for recommended treatment or admission to recommended treatment programs or facilities."
  - On 5/4/23, the court found that Mr. Dalen had been "unwilling to establish outpatient mental health care for either therapy or psychiatric medication management." The court continued Mr. Dalen's civil commitment for six months.
  - This commitment order was terminated on 10/30/2023.
- **73-CR-23-2528** (Stearns County, filed 3/29/2023)
  - Mr. Dalen was charged with three felony counts of harassment and stalking.
  - On 4/3/2023, Mr. Dalen was arrested and detained in Stearns County jail.
  - On 6/6/23, Defendant admitted Mr. Dalen to Anoka-Metro Regional Treatment Center.
  - On 7/5/2023, Mr. Dalen was provisionally discharged from treatment and ordered by the commitment court to be returned to Stearns County Jail 7/5/23.
  - Mr. Dalen pleaded guilty to two counts of gross misdemeanor harassment.

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- Mr. Dalen was sentenced on 10/3/2023. For the first count, he received 364 days of confinement to the Stearns County Jail, including 122 days already served and 242 days stayed during two years of supervised probation. For the second count, he was again sentenced to 364 days of confinement, all of which was stayed during two years of supervised probation. Both the confinement and probation imposed for count two run consecutively to the sentence for count one.

Sincerely,

GUSTAFSON GLUEK PLLC

s/Daniel E. Gustafson  
Daniel E. Gustafson

DEG/sam

cc: Counsel of Record (via ECF)